

TESTIMONY OF PAUL B. LINDSTROM

My name is Paul Lindstrom. I am a Senior Vice President with Nielsen. I am responsible for research design and analysis as a part of the Nielsen Media Analytics group. Nielsen is a global leader in information services for the media and entertainment industries. Nielsen serves the information and marketing needs of television and radio broadcasters, cable networks, advertisers, agencies, media planners, music companies, publishers, motion-picture studios, distributors and exhibitors, and the Internet industry.

The Nielsen name is synonymous with television ratings. Ratings are the percent of the universe of U.S. households tuned to a TV program during the average quarter-hour. Nielsen ratings provide an estimate of the U.S. television audience size and are a barometer for viewing choices and preferences. Viewing information is important to broadcast networks, local and national syndicated programs, local cable system operators, multi-system cable operators (MSOs), satellite carriers, and interconnects. Interconnects are aggregations of cable systems that cover a particular market or region, thus allowing an agency or advertiser to buy a large area at one time without having to negotiate with many different companies.

As more local cable ad sellers sell local advertising time on cable channels, they need an agreed “currency” in order to maximize the value of their advertising time. Nielsen ratings offer that currency. Nielsen’s charter as an independent



measurement service is to provide both the buyer and seller of time with unbiased estimates of viewing behavior.

I. BACKGROUND AND EXPERIENCE

I have worked for Nielsen for thirty-eight years and have spent the majority of that time designing custom research with a particular focus on new television viewing sources and audience measurement of new services that might compete with television. These have included cable television, pay-TV, satellite services, over-the-air subscription television, VCRs, PCs, on-line services, the Internet, DVDs, cinema, and most recently, place-based and location-based digital networks. I am currently responsible for national custom research and custom research for local cable. I work with clients to determine the best methodologies to answer their audience research questions. In the television area, these methods can involve either the analysis of existing databases of previously collected meter data, local television diary samples, or the development of new databases through the use of new single-client sponsored data collections.

Through the years I have worked on projects as varied as the pre-launch concept tests for ESPN, The Weather Channel and DirecTV, the design of Nielsen's Syndicated Pay Cable, VCR Usage, Syndicated Satellite and Home Technology Reports,¹ the CommerceNet Study of Internet Usage, the Nielsen Cinema Audience Report, and Nielsen On Location Media. I have been involved in all of the studies that the Motion Picture Association of America ("MPAA") has directed Nielsen to

¹ Nielsen's Syndicated Satellite Report was the first study to utilize diary data to examine satellite viewing. The Home Technology Report is a trending study which has now produced estimates of the growth of new technologies over the last 20 years.



conduct for proceedings before the Copyright Royalty Tribunal, the Copyright Arbitration Royalty Panel, and the Copyright Royalty Judges since 1980. Also, I have testified before those bodies. I understand that my testimony before the Judges in the 2000-2003 Cable Phase II proceeding has been submitted by MPAA as prior designated testimony in this proceeding.²

II. PURPOSE OF TESTIMONY

The purpose of my testimony is to provide an overview of Nielsen's sampling process and method for generating television ratings and to explain the types of Nielsen data on which MPAA is relying in this proceeding.

III. SAMPLING AND TV RATINGS

The Nielsen rating you may see reported in newspapers or magazines is simply a statistical estimate of the number of homes tuned to a program. For example, a rating of 5 for a network television program means that 5% of the estimated U.S. television homes at the time of measurement are estimated to have been tuned in to that program at any point in time.

Above, I describe a rating as a "statistical estimate." However, ratings are based, not on a count of all television households, but on the count within a sample of television households selected from all television households. The sample results are then projected to national totals. We also sometimes use the phrase "share" to quantify audience viewing levels. "Share" is an estimate of the households tuned to a particular channel or program. In other words, a rating measures what percentage of

² See MPAA Written Direct Statement Regarding Allocation ("MPAA WDS"), Vol. III at Tabs D-E.



the universe of television households tuned in to a program, while a share measures what percentage of all households tuned in to any particular channel or program.

IV. NIELSEN DATA USED IN THIS PROCEEDING

During 2000-2009, Nielsen utilized two basic data collection instruments in our syndicated services: meters and diaries. A set meter is an electronic device attached to a television set in a particular household that detects the channel to which the television is being tuned. The data from these set meters are then converted into household ratings. Household meter data was collected year-round in Nielsen's metered markets during 2000-2009. Diaries are paper booklets in which each person in the household records viewing information.

I understand that Dr. Jeffrey Gray makes use of three different kinds of Nielsen data in his economic analysis: (1) custom analyses of national household diary data for 2000-2003, (2) custom analyses of national household metered viewing data for 2008 and 2009, and (3) local ratings data for samples of stations for the years 2000 through 2009. The first two types of Nielsen data are custom analyses of Nielsen diary data and Nielsen household metered viewing data that Nielsen designed for MPAA. The other type of Nielsen data is a standard report drawn from Nielsen's syndicated measurement.

A. 2000-2003 Cable and Satellite Custom Analyses

In 2000-2003, diary data was collected by Nielsen during the months of November, February, May, July, and, in some instances, October and March. These months are also known as the "sweeps" rating periods. Diary data was collected in metered and non-metered markets. Seven-day diaries were mailed to homes to keep a



tally of what was watched on each television set and by whom. Over the course of a sweeps period, diaries were mailed to a new panel of homes each week. At the end of each month, all of the viewing data from the individual weeks were aggregated into Nielsen's database.

I designed custom analyses of Nielsen diary data for 2000-2003 which estimated actual distant viewing by cable households and satellite households. I described the methodology employed for my 2000-2003 cable custom analysis in my previous testimony in the 2000-2003 cable Phase II proceeding.³ While the methodology used for the 2000-2003 satellite custom analysis is very similar to the methodology used for my 2000-2003 cable custom analysis, the methodology differs in some respects.

The MPAA 2000-2003 satellite diary study is a custom analysis of the sweeps diary viewing data that are used for generating the cable and broadcast network ratings. The methodology, in brief, is as follows:

- 1) MPAA supplied Nielsen with the list of the Kessler Stations (all of which were distantly retransmitted by satellite systems in 2000, 2001, 2002, and 2003).⁴ I understand that MPAA relied on data from Cable Data Corporation ("CDC") identifying stations distantly retransmitted by satellite systems during 2000-2003 and selected the Kessler Stations based on the amount of Section 119

³ *See id.*

⁴ My custom analysis estimated viewing by satellite households to the distant signals identified in Appendix C to Jane Saunders' satellite Written Direct Testimony in this proceeding. *See* MPAA WDS, Vol. II at Tab B.



royalty fees generated by each station and Nielsen's ability to provide data for the station.

- 2) Nielsen captured all viewing to each of the Kessler Stations that occurred within satellite households. This is reported in the form of quarter hours of viewing by households.

B. 2008 And 2009 Cable And Satellite Custom Analyses

Following the Copyright Royalty Judges' May 4, 2016 Order reopening the record in this proceeding, MPAA contacted Nielsen and sought to obtain custom analyses of national household metered viewing data to distant households for the 2004-2009 cable and satellite royalty years. Due to structural changes in how Nielsen has archived old databases, upgrades of its computer systems over the years, costs, and the time constraints imposed by the Judges for this proceeding, Nielsen could provide such data only for the years 2008 and 2009.

Our team of professionals designed custom analyses of Nielsen national household metered viewing data for 2008 and 2009 which estimate actual distant viewing by cable and satellite households. The methodology for our custom analyses, in brief, is as follows:

- 1) Dr. Jeffrey Gray supplied Nielsen with a list of his sample stations for the 2008 and 2009 cable and satellite royalty years. I understand that Dr. Gray relied on data from CDC in order to select the stations in his samples for each year.
- 2) Based on county analyses it performed, CDC provided Nielsen with the identity of the counties considered local to each station in Dr. Gray's samples.



3) For the 2008 and 2009 cable custom analyses, Nielsen eliminated all non-cable viewing of programs for Dr. Gray's sample stations. Further, it separated all viewing to each station that occurred within the station's local area (as determined by CDC's county analyses) from viewing that occurred outside the station's local area. Nielsen then provided a report to Dr. Gray separately identifying both local viewing and distant viewing among cable households for the stations in Dr. Gray's 2008 and 2009 samples. This was reported in the form of quarter hours of viewing by households.

4) For the 2008 and 2009 satellite custom analyses, Nielsen eliminated all non-satellite viewing of programs for Dr. Gray's sample stations. Nielsen further separated all viewing to each station that occurred within the station's local area (as determined by CDC's county analyses) from viewing that occurred outside the station's local area. Nielsen then provided a report to Dr. Gray separately identifying both local viewing and distant viewing among satellite households for the stations in Dr. Gray's 2008 and 2009 samples. This was reported in the form of quarter hours of viewing by households.

C. 2000-2009 Nielsen Local Ratings Data

This data set contains Nielsen local ratings data for a sample of stations randomly selected by Dr. Gray for the years 2000-2009. These local ratings data were collected by electronic meters attached to television sets in Nielsen metered markets. These data include information on the number and percentage of households in the station's local market tuned to the station for each quarter hour for every day throughout the year.



I understand that Dr. Gray relied on each of these types of Nielsen data in his analysis.

V. “ZERO VIEWING” INSTANCES

One concern raised in past Phase II proceedings was the so-called “zero viewing” instances that appeared in Nielsen’s custom analysis of Nielsen diary data. I discussed this issue extensively during my hearing testimony before the Judges in the recent 2000-2003 cable Phase II proceeding.⁵ As I testified previously, the appearance of these “zero viewing” instances is consistent with what I would expect to find in a custom analysis of viewing to distant signals by cable or satellite subscribers.

Thank you for the opportunity to testify in this proceeding.

⁵ See MPAA WDS Volume III, Tab E (Tr. at 298-301, 371-412 (Lindstrom)).



DECLARATION OF PAUL B. LINDSTROM

I declare under penalty of perjury that the foregoing testimony is true and correct, and of my personal knowledge.

Executed on August 2, 2016

A handwritten signature in black ink, appearing to read "Paul B. Lindstrom". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Paul B. Lindstrom

Certificate of Service

I hereby certify that on Thursday, April 05, 2018 I provided a true and correct copy of the Written Direct Testimony of Paul B. Lindstrom, filed August 22, 2016. to the following:

Devotional Claimants, represented by Benjamin S Sternberg served via Electronic Service at ben@lutzker.com

Independent Producers Group (IPG), represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Signed: /s/ Lucy H Plovnick